In the High Court of Judicature at Madras

Dated:13.04.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition Nos.369 to 372 of 2006
and HCMP.Nos.38 to 45 of 2006

Dr.L.Prakash .. Petitioner in HCP No.369 of 2006

M.Saravanan .. Petitioner in HCP No.370 of 2006

Vijayan @ Vijayakumar .. Petitioner in HCP No.371 of 2006

Asir @ Asir Gunasingh .. Petitioner in HCP No.372 of 2006

vs.

1. State represented by
   V.Rajendran,
   Assistant Commissioner of Police,
   R-8 Vadapalani,
   Chennai.

2. The State of Tamilnadu
   represented by its Secretary,
   Department of Home Affairs,
   Fort St.George,
   Chennai-9. ..Respondents in all petitions

Petitions filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

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For petitioners : Mr. R.Karuppan

For respondents : Mr. V. Varadharajan
for Abudukumar Rajarathinam
Govt. Advocate (Crl.side)

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COMMON ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

The petitioners, viz., Dr.L.Prakash, M.Saravanan, Vijayan @ Vijayakumar and Asir @ Asir Gunasingh, who are A.1 to A.4 respectively in Sessions Case No.9 of 2004 pending on the file of V Fast Track Court, Chennai, filed the above habeas corpus petitions for quashing of S.C.No.9 of 2004 and set them at liberty.

2. Heard Mr. Karuppan, learned counsel for the petitioners in detail.

3. Before going into the grievance expressed by the petitioners and the contentions of the learned counsel for the petitioners, it is relevant to point out that the very same petitioners filed similar, identical habeas corpus petitions, viz., HCP.Nos.249 to 252 of 2006 before this court. We verified the earlier habeas corpus petitions, in those petitions wherein the petitioners have prayed for quashing of S.C.No.9 of 2004, pending on the file of V Fast Track Court, Chennai. By order dated 16.03.2006, after considering the contentions raised and hearing the very same counsel, viz., Mr. Karuppan as well as Mr. Jayakumar, learned Public Prosecutor for the respondents and taking note of the fact that the prosecution is to examine only six witnesses and also after finding that there is no prima facie case for quashing S.C.No.9 of 2004, dismissed all the four habeas corpus petitions.

4. As said earlier, the very same petitioners filed the present petitions seeking for quashing of S.C.No.9 of 2004. In the present affidavits filed in support of the above petitions, it is mainly contended that because of the fact that the trial in that case is being closely monitored by a learned single Judge of this Court, the petitioners are very much prejudiced, which necessitated them to file these petitions. Apart from the above claim, Mr. Karuppan, learned counsel also contended that there is no provision, which empowers the learned Judge to monitor any case, particularly S.C.No.9 of 2004. He further contended that the present Bench has power to review the earlier order or directions issued by the learned Judge monitoring the trial of S.C.No.9 of 2004.

5. We considered the grievance expressed by the petitioners as well as the arguments advanced by Mr. Karuppan.

6. Considering the claim made in the affidavit in those petitions, after hearing the learned public prosecutor for the respondents, we disposed of the earlier habeas corpus petitions at the admission stage itself, after finding that there is no prima facie

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material to quash S.C.No.9 of 2004. In that finding we made a reference to the direction of the learned Judge in Criminal O.P.No.25095 of 2003 dated 24.02.2006. Though it is contended that this Court cannot monitor the trial of any proceedings, considering the grievance expressed and for early disposal of the criminal trial, such directions have been issued by the learned Judge in the said original petition. This cannot be faulted with. It is not the case of the petitioners that any direction has been issued causing prejudice to any of the parties. The direction is only with regard to early completion of the trial.

7. Coming to the merits of the claim in the present petitions, as stated earlier, the perusal of the affidavit shows that except the grievance relating to monitoring the case by learned single Judge, no other claim has been made. In view of our detailed order dated 16.03.2006 and of the fact that even on the date when we disposed of earlier habeas corpus petitions, the prosecution has to examine six witnesses and in the absence of any change of circumstance, we are not inclined to entertain the above petitions. Consequently, all the petitions are dismissed and connected miscellaneous petitions are closed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Assistant Commissioner of Police,
   R-8 Vadapalani,
   Chennai.

2. The Secretary to Govt.of Tamil Nadu,
   Department of Home Affairs,
   Fort St.George,
   Chennai-9.

1 cc to Mr.R.Karuppan, Advocate, SR.18497

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dv/25.4.06

Common Order in
H.C.P.No.369 to 372 of 2006

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